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# **INTERNATIONAL STANDARDS FOR PHYTOSANITARY MEASURES**

## **GUIDELINES FOR THE NOTIFICATION OF NON-COMPLIANCE**



**Secretariat of the International Plant Protection Convention  
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of the United Nations  
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# **GUIDELINES FOR THE NOTIFICATION OF NON-COMPLIANCE**

## **INTRODUCTION**

### **Scope**

This standard describes the actions to be taken by contracting parties regarding the notification of:

- significant instances of failure to comply with specified phytosanitary measures including the interception of specified regulated pests;
- significant instances of failure to comply with documentary requirements for phytosanitary certification;
- emergency action taken on the interception of a regulated pest not listed as being associated with the commodity from the exporting country and posing a potential risk to the importing contracting party; and
- emergency action taken on the interception of an uncategorized pest.

### **References**

Determination of pest status in an area, 1998. ISPM Pub. No. 8, FAO, Rome.

Export certification systems, 1997. ISPM Pub. No. 7, FAO, Rome.

Glossary of phytosanitary terms, 1999. ISPM Pub. No. 5, FAO, Rome.

Guidelines for phytosanitary certificates (ISPM in draft).

International Plant Protection Convention, 1997. FAO, Rome.

### **Definitions, Abbreviations and Acronyms**

Area	An officially defined country, part of a country or all or parts of several countries
Certificate	An official document which attests to the phytosanitary status of any consignment affected by phytosanitary regulations
Commodity class	A category of similar commodities that can be considered together in phytosanitary regulations
Consignment	A quantity of plants, plant products and/or other articles being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more lots)
Consignment in transit	Consignment which passes through a country without being imported, and without being exposed in that country to contamination or infestation by pests. The consignment may not be split up, combined with other consignments or have its packaging changed

Detention	Keeping a consignment in official custody or confinement for phytosanitary reasons
Emergency action	A prompt phytosanitary action undertaken in an abnormal or unexpected phytosanitary situation
Interception (of a consignment)	The refusal or controlled entry of an imported consignment due to failure to comply with phytosanitary regulations
Interception (of a pest)	The detection of a pest during inspection or testing of an imported consignment
Introduction	The entry of a pest resulting in its establishment
IPPC	Acronym for the International Plant Protection Convention, as deposited in 1951 with FAO in Rome and as subsequently amended
NPPO	Acronym for National Plant Protection Organization
Official	Established, authorized or performed by a National Plant Protection Organization
Pest	Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products
Pest status (in an area)	Presence or absence, at the present time, of a pest in an area, including where appropriate its distribution, as officially determined using expert judgement on the basis of current and historical pest records and other information
Phytosanitary action	Any official operation such as inspections, tests, surveillance, or treatments, undertaken to implement phytosanitary regulations in relation to consignments, regulated articles, places of production, areas or where otherwise justified
Phytosanitary certificate	Certificate patterned after the model certificates of the IPPC
Phytosanitary measure	Any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of pests
Phytosanitary regulation	Official rule to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests, including establishment of procedures for phytosanitary certification
Regulated non-quarantine pest	A non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party

Regulated pest	A quarantine pest or a regulated non-quarantine pest
RPPO	Acronym for Regional Plant Protection Organization
Spread	Expansion of the geographical distribution of a pest within an area
Treatment	Officially authorized procedure for the killing, removal or rendering infertile of pests

### **Outline of Requirements**

The International Plant Protection Convention (IPPC) makes provision for contracting parties to take actions for non-compliance with phytosanitary requirements including the interception of regulated pests or pests which are not categorized but are believed to pose potential phytosanitary threats. The importing contracting party is required to notify the exporting contracting party regarding significant phytosanitary actions so that the exporting contracting party understands the basis for non-compliance and may investigate and correct as necessary the cause. Importing contracting parties may request a report of the results of such investigations.

Required information for notification includes the type of notification, the reference number, the date of notification, the identity of the importing and exporting NPPOs, the identity of the consignment and date of interception, the reasons for interception, information regarding the nature of non-compliance, and the phytosanitary measures applied.

An exporting contracting party should investigate significant instances of non-compliance to determine the possible cause. For consignments in transit, an instance of non-compliance with the requirements of the transit country should be notified to the exporting country. In cases of re-export associated with a phytosanitary certificate for re-export, the obligations of the exporting contracting party apply to the re-exporting contracting party.

Countries that are not contracting parties to the IPPC are encouraged to use these notification systems.

## REQUIREMENTS

### 1. Purpose of notifications

Notifications of non-compliance are provided by the importing contracting party to the exporting contracting party to identify significant failures to comply with specified phytosanitary requirements, to help in investigating the cause of the non-compliance, and to facilitate steps to avoid recurrence. Thus, notification is normally bilateral, although there may be arrangements in place for the notification of other contracting parties, non-contracting parties, or RPPOs who have agreed to share such information.

### 2. The use of notification information

Notifications and information used for notification are valuable for official purposes but may also be easily misunderstood or misused if taken out of context or used imprudently. To minimise the potential for misunderstandings or abuse, contracting parties should be careful to ensure that notifications and information about notifications is distributed in the first instance only to the exporting contracting party. The importing contracting party should consult with the exporting contracting party and provide the opportunity for the exporting contracting party to validate non-compliance, investigate, and correct as necessary. This should be done before changes in the phytosanitary status of a commodity or area, or other failures of phytosanitary systems in the exporting country are confirmed or reported more widely (See also good reporting practices for interceptions in ISPM No. 8, *Determination of pest status in an area*).

### 3. Basis for notification systems

The establishment of systems for the routine practice of notification is based on several provisions of the IPPC, summarized as follows:

- Art VII.2f states that importing contracting parties must notify exporting or re-exporting contracting parties of significant instances of non-compliance with phytosanitary certification and that on request, the exporting or re-exporting contracting party should report on its investigation of the non-compliance.
- Art VII.6 states that contracting parties may take emergency actions and must report these to the exporting or re-exporting contracting party.
- Art VIII.1 states that contracting parties will cooperate to achieve the aims of the Convention.
- Art VIII.2 states that contracting parties must identify an official contact point for the exchange of information.

Significant non-compliance of a consignment with phytosanitary requirements should be notified to the exporting contracting party whether or not the consignment requires a phytosanitary certificate. Emergency actions based on a pest should also be notified to the exporting contracting party.

The use of notification for other purposes is voluntary but in all instances should only be undertaken with the aim of international cooperation to prevent the introduction and/or spread

of regulated pests (IPPC Art I and VIII). Countries that are not contracting parties to the IPPC are encouraged to use these notification systems.

#### **4. Basis for notification**

The notification of an interception of a consignment may result from:

- significant instances of non-compliance requiring phytosanitary action;
- emergency actions.

In most instances, it is the interception of regulated pests listed for a commodity that is the basis for the interception of consignments and subsequent phytosanitary actions.

##### **4.1 Significant instances of non-compliance**

Contracting parties may agree bilaterally on what instances of non-compliance are considered significant for notification purposes. In the absence of such agreement, the importing contracting party should judge the degree of significance associated with instances of non-compliance as the basis for notification. This may be done on a case-by-case basis or within the framework of a general policy on notification. In particular, contracting parties may consider the following to be significant:

- failure to comply with phytosanitary measures;
- the detection of regulated pests;
- failure to comply with documentary requirements, including
  - uncertified alterations or erasures to phytosanitary certificates;
  - serious deficiencies in information on phytosanitary certificates;
- prohibited consignments;
- prohibited articles in consignments of enterable material (e.g. soil);
- evidence of failure of specified treatments;
- repeated instances of prohibited commodities in (e.g. small, non-commercial quantities carried by passengers or sent by mail).

##### **4.2 Emergency action**

Emergency actions are taken on:

- the interception of a regulated pest not listed as being associated with the commodity from the exporting country and posing a potential risk to the importing contracting party;
- the interception of an uncategorized pest.

## 5. Types of notification

Notifications may be preliminary or final depending on the need to notify the exporting contracting party before a final decision is taken. Each importing contracting party is responsible for the validation of non-compliance notifications and the justification of phytosanitary measures that may be applied.

### 5.1 Preliminary notifications

Preliminary notifications are used voluntarily when appropriate to explain the detention of a consignment where a possible non-compliance or emergency situation is indicated but needs confirmation. They are provided to the exporting contracting party and should be sent as soon as possible. Preliminary notifications should be followed by confirmation or retraction.

### 5.2 Final notifications

Final notification should be provided promptly once non-compliance or the need for emergency action has been confirmed and phytosanitary actions taken. Final notifications should be provided to the exporting contracting party. Where a final notification follows a preliminary notification, the final notification should refer to the preliminary notification. There may be arrangements in place for the sharing of notification with contracting parties or RPPOs where the importing contracting party has agreed to share such information.

## 6. Information included in a notification

Notifications should follow a standardized format and include certain minimum information. NPPOs are encouraged to provide additional information where such information is deemed relevant and important or has been specifically requested by the exporting country.

### 6.1 Required information

Contracting parties should use a consistent format for notification including the following information<sup>1</sup>:

- *Type of notification* - i.e., preliminary or final
- *Reference number* - the reporting country should have a means of tracing the communication sent to an exporting country. This could be a unique reference number or the number phytosanitary certificate associated with the consignment.
- *Date* - the date on which notification is sent should be noted.
- *Identity of the NPPO* of the importing contracting party.
- *Identity of the NPPO* of the exporting contracting party.
- *Identity of consignment* - consignments should be identified by the phytosanitary certificate number if appropriate or by references to other documentation and including commodity class and plant species.
- *Date of interception* of the consignment.
- *Reasons for interception* of the consignment.

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<sup>1</sup> Note: Preliminary notification will be necessarily incomplete.



- *Specific information regarding the nature of the non-compliance* including:
  - identity of pest (see also section 8 below);
  - where appropriate, whether part or all of the consignment is affected;
  - problems with documentation;
  - actual non-compliance against phytosanitary requirements.
- *Phytosanitary measures applied* - the phytosanitary measures should be specifically described and the parts of the consignment affected by the measures identified.
- *Authentication marks* - the notifying authority should have a means for identifying valid notifications (e.g. stamp, seal, letterhead, authorized signature).

Only communication from official contact points is considered to be authentic unless the NPPO of the importing country indicates other official sources.

## **6.2 Supporting information**

Supporting information may include as appropriate:

- Copy of the phytosanitary certificate or other relevant documents;
- Diagnostic results, possibly also identifying the diagnostician and/or laboratory;
- Pest association i.e., details on where the pest was found or how it affects the consignment;
- Other information deemed to be useful for the exporting country to be able to identify and correct non-compliance.

## **6.3 Forms, codes, abbreviations or acronyms**

Where forms, codes, abbreviations or acronyms are used in notification or supporting information, contracting parties should make appropriate explanatory material available on request.

## **6.4 Language**

The language(s) used for notification and supporting information will be the language(s) preferred by the notifying contracting party except where bilaterally agreed otherwise. Where information is requested through contact points, information should be supplied in one of the FAO languages (IPPC Article XIX.3e).

## **7. Documentation and means of communication**

Notification documents, supporting information and associated records should be kept by the notifying contracting party for at least one year after the date of notification. Electronic notifications should be used for efficiency and expediency whenever possible.

## **8. Pest identification**

The identification of intercepted pests should be undertaken to the extent necessary for the determination of appropriate phytosanitary or emergency action. Where this is not possible or feasible, the results of any identification undertaken and the reasons for incomplete or missing information in this regard should be included in the notification (e.g. treatment chosen by the importer instead of full identification).

When identifying intercepted pests, importing contracting parties should:

- be able to describe, on request, the procedures used for diagnosis, including the identity of the diagnostician and/or laboratory, and should retain, for an appropriate period, evidence such as appropriate specimens or material to allow validation of potentially controversial determinations;
- indicate the life-stage of the pest;
- provide identification to species level where possible or to a taxonomic level that justifies the official actions taken.

## **9. Investigation of a non-compliance notification**

The exporting contracting party should investigate significant instances of non-compliance to determine the possible cause with a view to avoid recurrence. Upon request, the results of the investigation should be reported to the importing contracting party. Where the results of the investigation indicate a change of pest status this information should be communicated according to the good practices noted in ISPM No. 8: *Determination of pest status in an area*.

## **10. Transit**

For a consignment in transit, any instance of non-compliance with the requirements of the transit country should be notified to the exporting contracting party. Where the transit country has reason to believe that the non-compliance may also be a problem for the country of final destination, the transit country may also provide a notification to the country of final destination. The country of final destination should copy its notifications to any transit country involved.

## **11. Re-export**

In cases of re-export associated with a phytosanitary certificate for re-export, the obligation and other provisions pertaining to the exporting contracting party apply to the re-exporting contracting party.